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Attorney for Movant
WACHOVIA MORTGAGE CORPORATION

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

In re:
ADAN CAISHPAL,
BLANCA CAISHPAL,

Debtors.

CASE NO.: 09-14385 AJ-7

CHAPTER: 7

DC NO.: EAT-688

MOTION TO ANNUL THE AUTOMATIC
STAY AND FOR RELIEF FROM THE
AUTOMATIC STAY

DATE: February 25, 2010

TIME: 9:00 a.m.

PLACE: U.S. Bankruptcy Court
99 South E Street
Santa Rosa, California

WACHOVIA MORTGAGE CORPORATION hereby moves the court for an Order Annulling the Automatic Stay and for an Order Terminating Automatic Stay for cause pursuant to *11 U.S.C. Section 362(d)(1)* on the grounds hereafter set forth:

1. On December 23, 2009, the Debtors ADAN CAISHPAL and BLANCA CAISHPAL commenced this voluntary Chapter 7 case in the United States Bankruptcy Court for the Northern District of California, Santa Rosa Division, Case No. 09-14385 AJ-7. TIMOTHY W. HOFFMAN is the

1 duly appointed, qualified and acting Chapter 7 Trustee.

2
3 2. The court has subject matter jurisdiction over this Motion to Annul the Automatic Stay
4 and for Relief from the Automatic Stay under the provisions of 28 U.S.C. *Section 157(b)* and 11 U.S.C.
5 *Section 362*. Venue in this court is proper under the provisions of 28 U.S.C. *Sections 1408* and *1409*.

6
7 3. The debtors are the former owners of certain real property commonly known as **2085**
8 **Banjo Drive, Santa Rosa, California 95407** and legally described as follows:

9
10 LOT 105, AS SHOWN ON THE MAP ENTITLED, "BELLEVUE RANCH
11 SUBDIVISION – PHASE 1", FILED FOR RECORD ON OCTOBER 15, 1996 IN
12 BOOK 556 OF MAPS, PAGES 4 THROUGH 12, SONOMA COUNTY RECORDS.

13 4. Movant is the current owner of the real property, having acquired title following a non-
14 judicial foreclosure sale held on December 11, 2009 and having duly perfected its title by Trustee's
15 Deed Upon Sale recorded on December 21, 2009 as Instrument No. 2009-121695 in the Office of the
16 Sonoma County Recorder, all in compliance with applicable non-bankruptcy law.

17
18 5. Movant was unaware of the debtors' bankruptcy petition and on January 6, 2010, caused
19 its attorneys to serve the debtors with eviction notices as authorized by Cal. Code of Civ. Pro. § 1161a.

20
21 6. Movant has no landlord tenant relationship with the debtors whose right, title and interest
22 in the real property has been foreclosed in compliance with applicable non-bankruptcy law. The debtors
23 occupy the real property without movant's consent and have timed the filing of this bankruptcy to further
24 delay the state court unlawful detainer proceedings.

25
26 WHEREFORE, movant prays for an Order as follows:

1. For an Order Annulling the Automatic Stay and/or terminating the automatic stay to allow movant to enforce its state law : remedies against the real property described above and to allow the successful bidder to recover possession of said real property in accordance with applicable state laws.

2. That the Order Annulling the Automatic Stay and/or terminating the automatic stay be binding and effective notwithstanding any conversion of this case to a case under any Chapter of *Title 11* of the *United States Code* without further notice, hearing or court order.

3. That the Order Annulling the Automatic Stay and/or terminating the automatic stay be deemed effective and enforceable immediately upon its entry with no stay on its enforcement as prescribed by *Rule 4001(a)(3)* of the *Federal Rules of Bankruptcy Procedure*.

4. For such other relief as the court deems proper.

BARRETT DAFFIN FRAPPIER TREDER
& WEISS, LLP

Dated: January 29, 2010

By: /s/ Marisol A. Nagata
MARISOL A. NAGATA
Attorney for Movant